IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : R.S.A.No.4138 of 2005

Date of Decision : September 21, 2006.

Baldev Raj Sharma ..... Appellant

Vs.

The Registrar, Co-operative Societies,
Punjab, Chandigarh & others ..... Respondents

Coram : Hon'ble Mr.Justice P.S.Patwalia

* * *

Present : Mr.Arun Abrol, Advocate
for the appellant.

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P.S.Patwalia, J. (Oral) :

A reading of the judgments of the courts below would show that the benefit of the ad hoc service rendered by the plaintiff from 26.11.1969 up to 23.3.1972, when he was regularised, has not been granted to him towards seniority and consideration of his claim for grant of proficiency step up . The facts as recorded in para-10 of the judgment of the lower appellate court are as hereunder :-

"After going through the record of the case,

> *I find force in the contention of learned Govt. Pleader for appellant-defendants. Admittedly, the plaintiff was appointed on Adhoc basis by the defendant-department and the appointment order dated 26.11.69 attached with the file shows that the plaintiff was appointed only for six months and plaintiff continued as such till 27.5.70. Thereafter vide fresh order dated 28.5.70, which is also attached with the file, plaintiff was again appointed for six months and plaintiff continued as such till 27.11.70. Thereafter, after break of 12 days, plaintiff was again appointed for six months from 10.12.70 and he continued as such till 9.6.1971. Again after break of one day, plaintiff was again appointed for six months only vide order dated 11.6.71 and he continued till to 10.12.1971. Again plaintiff after a break of three days, again appointed vide order dated 13.12.1971 for six months and he joined on 14.12.71 and continued till 23.2.1972 when he was regularly appointed vide order dated 22.3.1972."*

A reading of the aforesaid extract would show that the plaintiff had been given repeated ad hoc appointments for six months only. It has been held by the Hon'ble Supreme Court in the case of ***State of Haryana and others vs. Gurdeep Kumar Uppal and others*** reported as ***2001(3) RSJ*** 15, relying upon an earlier judgment of the Supreme Court in the case

of ***State of Haryana vs. Haryana Veterinary and A.H.T.S.Assocn. and*** another reported as ***JT 2000 (10) SC 561*** that the benefit of ad hoc service cannot be granted for the grant of proficiency step up. Still further that only regular service is to be counted towards seniority. The relvant observations of the Hon'ble Supreme Court in Gurdeep Kumar Uppal's case are as hereunder :-

> ***"4.*** *The main question that arises for consideration in these appeals is whether the period of ad hoc services rendered by the respondents is to be included for calculating the period of 8 or 18 years if service for giving higher scale of pay under the proficiency step-up scheme. This question was considered by a three Judge Bench of this Court in the* ***State of Haryana vs, Haryana Veterinary and AHTS Association and another,*** *2000(4) RSJ 167 SC : JT 2000 (10) SC 561, wherein this Court took the view that for calculating 8/18 years service required for giving higher scale of pay and for determination of seniority only regular service rendered by the employee is to be counted and not ad hoc service.*
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> ***5.*** *Learned counsel for the respondent strenuously contended that the respondents who are doctors serving under the State of Punjab are governed by a set of Rules and circulars different from those which were*

considered in the decided case and therefore the ratio in that case will not be applicable in these cases. We have carefully considered the said contention. We have also considered the circular letter No.4-15-81 IPP/16047 dated 14th December, 1981. On a plain reading of the circular it is clear that the instructions contained therein were based on the decision of the Punjab and Haryana High Court taking the view that ad hoc service should be taken into account for the purpose. This circular in our view can no longer form the basis of the contention in view of the recent decision by this Court in State of Haryana vs. Haryana Veterinary and AHTS Association and another (Supra). Undisputedly the respondents at the time of their appointment were governed by the Punjab Civil Medical Services Class II (Recruitment and Conditions of Service) Rules, 1943. In Clause (5) of Rule 7 of the said Rules, it is provided that the seniority of the members, in each branch shall be determined by the dates of their confirmation in service. Further, in the orders appointing the respondents on ad hoc basis, it was specifically stated that they will be governed by the aforementioned Rules. It was further stated in paragraph III of the appointment letter that the

> *appointees' seniority will be determined only by merit in which he or she is placed by Punjab Public Service Commission. Thus it is clear that only regular service is to be counted towards seniority."*

I therefore find no merit in the present Regular Second Appeal and the same is accordingly dismissed in limine.

September 21, 2006 (P.S.Patwalia)
monika Judge